

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

James E. Shelton	:	
	:	
Plaintiff	:	
	:	
V	:	Civil Action No. 24-6870-JMY
	:	
EMPWR Solar LLC	:	
	:	
Defendant	:	

**DEFENDANT EMPWR SOLAR LLC’S MOTION FOR LEAVE TO FILE
AN AMENDED ANSWER WITH AFFIRMATIVE DEFENSES**

Defendant EMPWR Solar LLC, by and through its undersigned counsel, Bellwoar Kelly LLP files this Motion For Leave to File an Amended Answer with Affirmative defenses and in support thereof of theirs as follows.

1. Plaintiff, James E Shelton, commenced this action On December 27, 2024, asserting a violation of the Telephone Consumer Protection Act of 1991 (TCPA). (ECF1).
2. Plaintiff’s claims stem from a communication which occurred on November 29, 2024, less than one month before filing the instant litigation.
3. Service was affected upon EMPWR’s registered agent on January 2, 2025. (ECF2).
4. The undersigned counsel, Andrew Bellwoar, entered his appearance on February 11, 2025. (ECF3).
5. EMPWR filed an Answer with Affirmative Defenses on March 5, 2025. (ECF5).
6. Since the filing of its Answer with Affirmative Defenses, the parties, by and through Counsel, conducted a Rule 26 Conference.

7. The Court has not Scheduled or held a Rule 16 or Pre-trial Conference as of the date of this filing, nor issued a Case Management Order.
8. Plaintiff served interrogatories, request for production of documents and requests for admissions upon EMPWR.
9. EMPWR timely served Objections and Responses to Plaintiff's written discovery on May 15, 2025.
10. No other discovery has taken place as of the date of this filing.
11. During the course of review of this matter and responding to Shelton's written discovery, which revealed Shelton's extensive filings of TCPA claims, EMPWR determined the need to amend the previously filed Affirmative Defenses to address Plaintiff's allegations.
12. For example, Shelton is aware from his numerous lawsuits that the TCPA limits any fine in the amount of \$500 unless he can prove other damages.
13. It is averred and believed that plaintiff is a serial plaintiff in relation to TCPA claims and does not come forth in good faith, has unclean hands and will be unable to prove any actual damages.
14. It is also averred and believed that Plaintiff's class action claims will fail as he will be unable to prove or obtain class certification pursuant to Federal Rule of Civil Procedure 23, another tactic used by Plaintiff in filing extensive TCPA claims.
15. Plaintiff will not be prejudiced by permitting EMPWR to amend its affirmative defenses at this stage of the litigation.
16. A copy of the proposed Amended Answer with Amended Affirmative Defenses is attached hereto and marked Exhibit "A".

17. A party may amend its pleading with the opposing parties' written consent or leave of Court. F.R.C.P. 15(a)(2).

18. An amendment should be freely given when justice requires. F.R.C.P. 15(a)(2).

19. Plaintiff's counsel did not respond to a request for consent. Therefore, Defendant assumes Plaintiff does not consent to EMPWR's Motion to Amend the Answer and Affirmative Defenses.

20. Plaintiff would not be prejudiced by permitting Leave to Amend the Answer and Affirmative Defenses.

21. For the reasons set forth herein and the accompanying Memorandum of Law, EMPWR seeks leave of court to file an Amended Answer with Amended Affirmative Defenses.

Wherefore, EMPWR Solar LLC requests that this court grant its Motion for Leave to File an Amended Answer with Amended Affirmative Defenses and issue an Order in the form of the attached Proposed Order.

BELLWOAR KELLY

By: /s/ Sheryl L. Brown
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V	:	Civil Action No. 24-6870-JMY
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EMPWR Solar LLC	:	
	:	
Defendant	:	

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that on this day a true and correct copy of Defendant EMPWR Solar LLC's Motion for Leave to file Amended Answer with Amended Affirmative Defenses was served upon the following via ECF:

Andrew Roman Perrong, Esquire
Perrong Law LLC
2657 Mount Carmel Avenue
Glenside, PA 19038

BELLWOAR KELLY

May 30, 2025

By: /s/ Sheryl L. Brown
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